bsb

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3275 OF 2007

The State of Maharashtra through
The Sanchalak, Mahila Va Balkalyan
Sanchalaya, Pune & ors. ... Petitioners

V/s

Shri Suresh D. Mane
(since deceased, through legal heir)
Smt. Shobha S. Mane ... Respondent

Mr. R.D. Mulani, A.G.P. for the petitioners.

Mr. Yogesh Pendse holding for Mr. G.S. Godbole for the respondent No.1.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 16TH JULY, 2007.

P.C.:

1. The petitioners challenge the order of the Industrial Court in Complaint (ULP) No. 197 of 1994. Suresh Dattatray Mane had filed this complaint contending that the petitioners had committed an unfair labour practices under Items 5, 6, 9 & 10 of Schedule IV of the M.R.T.U. & P.U.L.P. Act, 1971.

2. Suresh Mane died on 21.11.1998 pending the complaint. His wife Shobha has been brought on record.

The Industrial Court, while considering the complaint, has not considered whether any dues of Suresh Mane were payable to Shobha on account of any unfair labour practices allegedly committed by the petitioners under Items 5, 6, 9 & 10 of Schedule IV of the Act. The Industrial Court has instead held that Shobha was entitled to be appointed in service of the petitioners on compassionate grounds as per the Government Resolution dated 8.3.1985.

3. The Industrial Court could not have passed such an order since Shobha was not an employee either present or past. A complaint under the M.R.T.U. & P.U.L.P. Act cannot be filed by a person who is not an employee either present or past and hence the relief granted by the Industrial Court cannot be sustained. At best the Industrial Court could have held that the petitioners had committed unfair labour practices under Items 5, 6, 9 & 10 of Schedule IV of the Act on the basis of the evidence led before it. The Industrial Court could then have ascertained whether any dues were payable to Suresh Mane upto 21.11.1998 i.e. the date on which he died. Thereafter his dues could have been directed to be paid to his legal heirs.

4. The order impugned is, therefore, set aside.

However, the complaint is remanded to the Industrial Court to decide -

(a) Whether the petitioners had committed unfair labour practices under Items 5, 6, 9 & 10 of Schedule IV of the Act ?

(b) Whether the legal heirs of Suresh Mane are entitled to any monetory benefits upto 21.11.1998 in case it is found that the petitioners had committed an unfair labour practices under Items 5, 6, 9 & 10 of Schedule IV of the Act ?

5. The Industrial Court shall decide the complaint within six months from the date of this order.

6. It appears that Shobha has already made an application to the petitioners to be employed on compassionate ground. This application shall be considered by the petitioners in accordance with the law, irrespective of the pending complaint.

7. Writ petition disposed of accordingly.

.....